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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN 2008 2995

**SANDRA A. PAYES
615 W. 111th Place
Los Angeles, CA 90044**

A C C U S A T I O N

Licensed Vocational Nurse No. VN 232608

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about February 25, 2008, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Licensed Vocational Nurse No. VN 232608 to Sandra A. Payes (Respondent). The Licensed Vocational Nurse was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 490 states:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee’s license was issued.

“(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

5. Section 2875 of the Business and Professions Code (“Code”) provides, in pertinent part, that the Board of Vocational Nursing and Psychiatric Technicians (“Board”) may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2878 states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

1 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violating of, or conspiring to violate any provision or term of this chapter.

3

4 "(f) Conviction of a crime substantially related to the qualifications, functions, and duties
5 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive
6 evidence of the conviction.

7 "(j) The commission of any act involving dishonesty, when that action is related to the
8 duties and functions of the licensee."

9 7. Section 2878.5 states, in pertinent part:

10 "In addition to other acts constituting unprofessional conduct within the meaning of this
11 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed
12 under this chapter to do any of the following:

13

14 "(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code,
15 or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a
16 manner dangerous or injurious to himself or herself, any other person, or the public, or to the
17 extent that the use impairs his or her ability to conduct with safety to the public the practice
18 authorized by his or her license.

19 "(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous
20 drug, or the prescription, consumption, or self-administration of any of the substances described
21 in subdivisions (a) and (b) of this section, in which event the record of the conviction is
22 conclusive evidence thereof."

23 **REGULATORY PROVISIONS**

24 8. California Code of Regulations, title 16, section 2521, states:

25 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
26 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
27 considered to be substantially related to the qualifications, functions or duties of a licensed
28 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed

1 vocational nurse to perform the functions authorized by his license in a manner consistent with
2 the public health, safety, or welfare. . .”

3 **COST RECOVERY**

4 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Criminal Convictions)**

10 10. Respondent is subject to disciplinary action under section 2878, subdivision (f), and
11 section 490, in conjunction with California Code of Regulations, title 16, section 2521, in that
12 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
13 of a licensed vocational nurse as follows:

14 a. On or about October 23, 2009, after pleading nolo contendere, Respondent was
15 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
16 [driving while having blood alcohol content greater than 0.08%], in the criminal proceeding
17 entitled *The People of the State of California v. Sandra Payes* (Super. Ct. Los Angeles County,
18 2009, No. 9WA01832). Respondent was sentenced to 96 hours in custody, ordered to attend an
19 18-month Alcohol Counseling Program, ordered to pay \$1,975.00 in fines, as well as being
20 placed on probation for a period of 60 months with certain terms and conditions. The
21 circumstances surrounding the conviction are that on or about May 17, 2009, officers with the
22 Los Angeles Police Department arrested Respondent for driving while under the influence of an
23 alcoholic beverage and unable to operate a motor vehicle safely.

24 b. On or about August 23, 2006, after pleading nolo contendere, Respondent was
25 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
26 [driving while having blood alcohol content greater than 0.08%], in the criminal proceeding
27 entitled *The People of the State of California v. Sandra Payes* (Super. Ct. Los Angeles County,
28 2006, No. 6CP05669). Respondent was sentenced to 1 day in custody, ordered to attend a

1 3-month First Offender Alcohol Counseling Program, ordered to pay \$1,437.00 in fines, as well
2 as being placed on probation for a period of 36 months with certain terms and conditions. The
3 circumstances surrounding the conviction are that on or about June 22, 2006, the California
4 Highway Patrol arrested Respondent for driving while under the influence of an alcoholic
5 beverage and unable to operate a motor vehicle safely.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Dangerous Use of Alcohol)**

8 11. Respondent is subject to disciplinary action under section 2878, subdivision (a), and
9 section 2878.5, subdivision (b), in that on May 17, 2009 and June 22, 2006, Respondent used
10 alcohol beverages in a manner dangerous to herself and the public when she operated a vehicle
11 while impaired with alcohol in her blood. Complainant refers to, and by this reference
12 incorporates, the allegations set forth in paragraph 10, subparagraphs (a) and (b), as though set
13 forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Convictions Involving the Consumption of Alcohol)**

16 12. Respondent is subject to disciplinary action under section 2878, subdivision (a) and
17 section 2878.5, subdivision (c), in that on or about October 23, 2009 and August 23, 2006,
18 Respondent was convicted of crimes involving the consumption of alcohol. Complainant refers
19 to, and by this reference incorporates, the allegations set forth in paragraph 10, subparagraphs (a)
20 and (b), inclusive, as though set forth fully.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 13. Respondent is subject to disciplinary action under section 2878, subdivisions (a) and
24 (f) of the Code, in that Respondent committed acts which constitute unprofessional conduct,
25 including the conviction of crimes substantially related to the qualifications, functions and duties
26 of a vocational nurse. Complainant refers to, and by his reference incorporates, the allegations set
27 forth in paragraph 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

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PRAYER

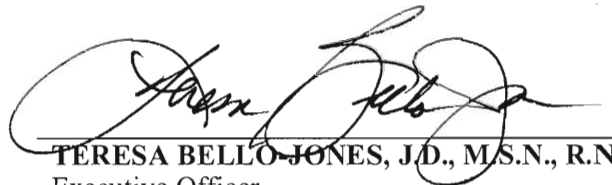
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Licensed Vocational Nurse No. VN 232608, issued to Respondent Sandra A. Payes;

2. Ordering Respondent Sandra A. Payes to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: April 5, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant